

AMENDED IN SENATE AUGUST 6, 2002

AMENDED IN SENATE JUNE 24, 2002

AMENDED IN ASSEMBLY JANUARY 7, 2002

AMENDED IN ASSEMBLY APRIL 18, 2001

AMENDED IN ASSEMBLY MARCH 29, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 13

Introduced by Assembly ~~Member Florez~~ *Members Florez and Matthews*

December 4, 2000

An act to amend ~~Section 82002 of~~ *Sections 86104, 86105, 86107, 86111, 86114, 86116, and 86205 of, and to add Sections 82018.5, and 82043.5 to,* the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 13, as amended, Florez. Political Reform Act of 1974: ~~Administrative action~~ *contracts for goods or services.*

~~Existing provisions of the Political Reform Act of 1974 require a lobbyist employer and any person who directly or indirectly makes payments to influence legislative or administrative action of \$5,000 or more in a calendar quarter to file periodic disclosure reports, as specified. Existing law defines "administrative action" as the proposal, drafting, development, consideration, amendment, enactment, or defeat by any state agency of any rule, regulation, or other action in any~~

~~ratemaking proceeding or any quasi-legislative proceeding, among other things.~~

~~This bill would include within the definition of administrative action the solicitation, proposal, drafting, development, consideration, awarding, amendment, implementation, oversight, or funding of any contract between a state agency and any person, under which the person provides goods or services to the state agency.~~

The Political Reform Act of 1974 requires a lobbying firm and a lobbyist employer, as defined, to register and file periodic activity reports with the Secretary of State disclosing specified information. It requires lobbyists, lobbying firms, and lobbyist employers to periodically report activity expenses, as defined.

This bill would require that registration information, activity reports, and activity expense reports filed by a lobbying firm, lobbyist employer, and a lobbyist disclose information relating to decisions or interests on contracts for goods and services, as specified.

This bill would define a nonrestrictive contract for goods or services, for the purposes of this bill, as a noncompetitively bid contract, including a contract eligible to be entered under the California Multiple Award Schedule or a master services agreement, under which a state agency receives goods or services from any person, if the contract is not a collective bargaining agreement, or is not a contract for personal services. It would define a decision on a nonrestrictive contract for goods or services as a decision on the solicitation, proposal, negotiation, drafting, amendment, awarding, or rescission of a nonrestrictive contract for goods or services.

Existing law prohibits a lobbyist or lobbying firm from engaging in specified actions including deceit with regard to a material fact pertinent to legislative or administrative action, causing the introduction or amendment of a bill for the purpose thereafter of being employed to secure its passage or defeat, and agreement to accept payment contingent upon the defeat, enactment, or outcome of proposed legislative or administrative action, among other things.

This bill would include a nonrestrictive contract for goods or services within the objects for which the specified actions are prohibited.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing these penalties on persons who violate the provisions of this bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974, would therefore require a $\frac{2}{3}$ vote.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 82002 of the Government Code is~~
2 ~~amended to read:~~
3 ~~82002. (a) "Administrative action" means either of the~~
4 ~~following:~~
5 ~~(1) The proposal, drafting, development, consideration,~~
6 ~~amendment, enactment, or defeat by any state agency of any rule,~~
7 ~~regulation, or other action in any ratemaking proceeding or any~~
8 ~~quasi-legislative proceeding, which shall include any proceeding~~
9 ~~governed by Chapter 3.5 (commencing with Section 11340) of~~
10 ~~Part 1 of Division 3 of Title 2.~~
11 ~~(2) The solicitation, proposal, drafting, development,~~
12 ~~consideration, awarding, amendment, implementation, oversight,~~
13 ~~or funding of any contract between a state agency and any person,~~
14 ~~under which the person provides goods or services to the state~~
15 ~~agency.~~
16 ~~(b) "Ratemaking proceeding" means, for the purposes of a~~
17 ~~proceeding before the Public Utilities Commission, any~~
18 ~~proceeding in which it is reasonably foreseeable that a rate will be~~
19 ~~established, including, but not limited to, general rate cases,~~
20 ~~performance-based ratemaking, and other ratesetting~~
21 ~~mechanisms.~~
22 ~~(c) "Quasi-legislative proceeding" means, for purposes of a~~
23 ~~proceeding before the Public Utilities Commission, any~~

~~proceeding that involves consideration of the establishment of a policy that will apply generally to a group or class of persons including, but not limited to, rulemakings and investigations that may establish rules affecting an entire industry.~~

~~SEC. 2.—~~

SECTION 1. *Section 82018.5 is added to the Government Code, to read:*

82018.5. *“Decision on a nonrestrictive contract for goods or services” means a decision on the solicitation, proposal, negotiation, drafting, amendment, awarding, or rescission of a nonrestrictive contract for goods or services.*

SEC. 2. *Section 82043.5 is added to the Government Code, to read:*

82043.5. *“Nonrestrictive contract for goods or services” means a noncompetitively bid contract, including a contract eligible to be entered under the California Multiple Award Schedule or a master services agreement, under which a state agency receives goods or services from any person, if the contract is not a collective bargaining agreement, or is not a contract for personal services.*

SEC. 3. *Section 86104 of the Government Code is amended to read:*

86104. The registration of a lobbying firm shall include:

(a) The full name, business address, and telephone number of the lobbying firm.

(b) A list of the lobbyists who are partners, owners, officers, or employees of the lobbying firm.

(c) The lobbyist certification of each lobbyist in the lobbying firm.

(d) For each person with whom the lobbying firm contracts to provide the following lobbying services, *or services related to decisions on nonrestrictive contracts for goods or services*:

(1) The full name, business address, and telephone number of the person.

(2) A written authorization signed by the person.

(3) The time period of the contract.

(4) Information sufficient to identify the nature and interests of the person including:

(A) If the person is an individual, the name and address of his or her employer, if any, or his or her principal place of business if

1 the person is self-employed, and a description of the business
2 activity in which the person or his or her employer is engaged.

3 (B) If the person is a business entity, a description of the
4 business activity in which it is engaged.

5 (C) If the person is an industry, trade, or professional
6 association, a description of the industry, trade, or profession
7 which it represents including a specific description of any portion
8 or faction of the industry, trade, or profession which the
9 association exclusively or primarily represents and, if the
10 association has not more than 50 members, the names of the
11 members.

12 (D) If the person is not an individual, business entity, or
13 industry, trade, or professional association, a statement of the
14 person's nature and purposes, including a description of any
15 industry, trade, profession, or other group with a common
16 economic interest which the person principally represents or from
17 which its membership or financial support is principally derived.

18 (5) The lobbying interests, *or interests in nonrestrictive*
19 *contracts for goods or services*, of the person.

20 (6) A list of the state agencies whose legislative or
21 administrative actions, *or decisions on nonrestrictive contracts for*
22 *goods or services*, the lobbying firm will attempt to influence for
23 the person.

24 (e) The name and title of a partner, owner, or officer of the
25 lobbying firm who is responsible for filing statements and reports
26 and keeping records required by this chapter on behalf of the
27 lobbying firm, and a statement signed by the designated
28 responsible person that he or she has read and understands the
29 prohibitions contained in Sections 86203 and 86205.

30 (f) Any other information required by the commission
31 consistent with the purposes and provisions of this chapter.

32 *SEC. 4. Section 86105 of the Government Code is amended to*
33 *read:*

34 86105. The registration of a lobbyist employer shall include:

35 (a) The full name, business address, and telephone number of
36 the lobbyist employer.

37 (b) A list of the lobbyists who are employed by the lobbyist
38 employer.

39 (c) The lobbyist certification of each lobbyist employed by the
40 lobbyist employer.

(d) Information sufficient to identify the nature and interests of the filer, including:

(1) If the filer is an individual, the name and address of the filer's employer, if any, or his or her principal place of business if the filer is self-employed, and a description of the business activity in which the filer or his or her employer is engaged.

(2) If the filer is a business entity, a description of the business activity in which it is engaged.

(3) If the filer is an industry, trade, or professional association, a description of the industry, trade, or profession which it represents including a specific description of any portion or faction of the industry, trade, or profession which the association exclusively or primarily represents and, if the association has not more than 50 members, the names of the members.

(4) If the filer is not an individual, business entity, or industry, trade, or professional association, a statement of the person's nature and purposes, including a description of any industry, trade, profession, or other group with a common economic interest which the person principally represents or from which its membership or financial support is principally derived.

(e) The lobbying interests, *or interests in nonrestrictive contracts for goods or services*, of the lobbyist employer, and a list of the state agencies whose legislative or administrative actions, *or decisions on nonrestrictive contracts for goods or services*, the lobbyist employer will attempt to influence.

(f) Any other information required by the commission consistent with the purposes and provisions of this chapter.

SEC. 5. Section 86107 of the Government Code is amended to read:

86107. (a) If any change occurs in any of the information contained in a registration statement, an appropriate amendment shall be filed with the Secretary of State within 20 days after the change. However, if the change includes the name of a person by whom a lobbying firm is retained, the registration statement of the lobbying firm shall be amended and filed to show that change prior to the lobbying firm's attempting to influence any legislative or administrative action, *or decision on a nonrestrictive contract for goods or services*, on behalf of that person. Lobbying firms and lobbyist employers which, during a regular session of the Legislature, cease all activity which required registration shall file

1 a notice of termination within 20 days after such cessation.
2 Lobbying firms and lobbyist employers which at the close of a
3 regular session of the Legislature cease all activity which required
4 registration, shall not be required to file a notice of termination.

5 (b) If any change occurs in any of the information contained in
6 a lobbyist certification or if the lobbyist terminates all activity
7 which required the certification, the lobbyist shall submit an
8 amended certification or notice of termination to his or her
9 lobbying firm or lobbyist employer for filing with the Secretary of
10 State within the time limits specified in subdivision (a). A lobbyist
11 who at the close of a regular session of the Legislature ceases all
12 activity which required certification, shall not be required to file
13 a notice of termination.

14 (c) Lobbyists and lobbying firms shall remain subject to
15 Section 86203 for the earlier of six months after filing a notice of
16 termination or six months after the close of a regular session of the
17 Legislature at the close of which the lobbyist or lobbying firm
18 ceased all activity which required certification or registration.

19 *SEC. 6. Section 86111 of the Government Code is amended to*
20 *read:*

21 86111. (a) “Activity expense” as used in this chapter means
22 any expense incurred or payment made by a lobbyist, lobbying
23 firm, lobbyist employer or a person described in subdivision (b)
24 of Section 86115, or arranged by a lobbyist or lobbying firm,
25 which benefits in whole or in part any elective state official,
26 legislative official, agency official, state candidate, or a member
27 of the immediate family of one of these individuals. Activity
28 expenses include gifts, honoraria, consulting fees, salaries, and
29 any other form of compensation but do not include campaign
30 contributions.

31 (b) “Agency official” as used in this chapter means any official
32 of a state agency whose administrative actions, *or decisions on*
33 *nonrestrictive contracts for goods or services*, the lobbyist,
34 lobbying firm, lobbyist employer, or person described in
35 subdivision (b) of Section 86115 has attempted or is attempting to
36 influence.

37 *SEC. 7. Section 86114 of the Government Code is amended to*
38 *read:*

39 86114. (a) Lobbying firms shall file periodic reports
40 containing all of the following:

1 (1) The full name, address, and telephone number of the
2 lobbying firm.

3 (2) The full name, business address, and telephone number of
4 each person who contracted with the lobbying firm for lobbying
5 services *or to influence decisions on nonrestrictive contracts for*
6 *goods or services*, a description of the specific lobbying interests
7 *or interests in nonrestrictive contracts for goods or services* of the
8 person, and the total payments, including fees and the
9 reimbursement of expenses, received from the person for lobbying
10 services *or to influence decisions on nonrestrictive contracts for*
11 *goods or services* during the reporting period.

12 (3) The total amount of payments received for lobbying
13 services *and to influence decisions on nonrestrictive contracts for*
14 *goods or services* during the period.

15 (4) A periodic report completed and verified by each lobbyist
16 in the lobbying firm pursuant to Section 86113.

17 (5) Each activity expense incurred by the lobbying firm
18 including those reimbursed by a person who contracts with the
19 lobbying firm for lobbying services. A total of all activity expenses
20 of the lobbying firm and all of its lobbyists shall be included.

21 (6) If the lobbying firm subcontracts with another lobbying
22 firm for lobbying services, *or to influence decisions on*
23 *nonrestrictive contracts for goods or services*:

24 (A) The full name, address, and telephone number of the
25 subcontractor.

26 (B) The name of the person for whom the subcontractor was
27 retained to lobby, *or influence regarding a decision on a*
28 *nonrestrictive contract for goods or services*.

29 (C) The total amount of all payments made to the
30 subcontractor.

31 (7) The date, amount, and the name of the recipient of any
32 contribution of one hundred dollars (\$100) or more made by the
33 filer to an elected state officer, a state candidate, a committee
34 controlled by an elected state officer or state candidate, or a
35 committee primarily formed to support such officers or
36 candidates. If this contribution is reported by the lobbying firm or
37 by a committee sponsored by the lobbying firm in a campaign
38 statement filed pursuant to Chapter 4 which is required to be filed
39 with the Secretary of State, the filer may report only the name of
40 the committee and the identification number of the committee.

(8) Any other information required by the commission consistent with the purposes and provisions of this chapter.

(b) In addition to the information required by subdivision (a), lobbying firms which qualify pursuant to paragraph (2) of subdivision (a) of Section 82038.5 shall also report the name and title of each partner, owner, officer, and employee of the lobbying firm who, on at least five separate occasions during the reporting period, engaged in direct communication with any elective state official, legislative official, or agency official, for the purpose of influencing legislative or administrative action, *or influencing decisions on nonrestrictive contracts for goods or services*, on behalf of a person who contracts with the lobbying firm for lobbying services, *or services related to decisions on nonrestrictive contracts for goods or services*. This does not include individuals whose actions were purely clerical.

SEC. 8. Section 86116 of the Government Code is amended to read:

86116. Every person described in Section 86115 shall file periodic reports containing the following information:

(a) The name, business address, and telephone number of the lobbyist employer or other person filing the report.

(b) The total amount of payments to each lobbying firm.

(c) The total amount of all payments to lobbyists employed by the filer.

(d) A description of the specific lobbying interests, *or interests in nonrestrictive contracts for goods or services*, of the filer.

(e) A periodic report completed and verified by each lobbyist employed by a lobbyist employer pursuant to Section 86113.

(f) Each activity expense of the filer. A total of all activity expenses of the filer shall be included.

(g) The date, amount, and the name of the recipient of any contribution of one hundred dollars (\$100) or more made by the filer to an elected state officer, a state candidate, or a committee controlled by an elected state officer or state candidate, or a committee primarily formed to support the officer or candidate. If this contribution is reported by the filer or by a committee sponsored by the filer in a campaign statement filed pursuant to Chapter 4 which is required to be filed with the Secretary of State, the filer may report only the name of the committee, and the identification number of the committee.

(h) (1) Except as set forth in paragraph (2), the total of all other payments to influence legislative or administrative action, *or decisions on nonrestrictive contracts for goods or services*, including overhead expenses and all payments to employees who spend 10 percent or more of their compensated time in any one month in activities related to influencing legislative or administrative action.

(2) A filer that makes payments to influence a ratemaking or quasi-legislative proceeding before the Public Utilities Commission, as defined in subdivision (b) or (c), respectively, of Section 82002, may, in lieu of reporting those payments pursuant to paragraph (1), report only the portion of those payments made to or for the filer's attorneys for time spent appearing as counsel and preparing to appear as counsel, or to or for the filer's witnesses for time spent testifying and preparing to testify, in this type of Public Utilities Commission proceeding. This alternative reporting of these payments made during a calendar month is not required to include payments made to an attorney or witness who is an employee of the filer if less than 10 percent of his or her compensated time in that month was spent in appearing, testifying, or preparing to appear or testify before the Public Utilities Commission in a ratemaking or quasi-legislative proceeding. For the purposes of this paragraph, time spent preparing to appear or preparing to testify does not include time spent preparing written testimony.

(i) Any other information required by the commission consistent with the purposes and provisions of this chapter.

SEC. 9. Section 86205 of the Government Code is amended to read:

86205. No lobbyist or lobbying firm shall:

(a) Do anything with the purpose of placing any elected state officer, legislative official, agency official, or state candidate under personal obligation to the lobbyist, the lobbying firm, or the lobbyist's or the firm's employer.

(b) Deceive or attempt to deceive any elected state officer, legislative official, agency official, or state candidate with regard to any material fact pertinent to any pending or proposed legislative or administrative action, *or decision on a nonrestrictive contract for goods or services*.

(c) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its passage or defeat, *or cause the proposal of a nonrestrictive contract for goods or services for the purposes of thereafter being employed to negotiate or secure the execution of that contract.*

(d) Attempt to create a fictitious appearance of public favor or disfavor of any proposed legislative or administrative action, *or nonrestrictive contract for goods or services*, or to cause any communication to be sent to any elected state officer, legislative official, agency official, or state candidate in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

(e) Represent falsely, either directly or indirectly, that the lobbyist or the lobbying firm can control the official action of any elected state officer, legislative official, or agency official.

(f) Accept or agree to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action.

(g) *Accept or agree to accept any payment in any way contingent upon securing a nonrestrictive contract for goods or services.*

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SEC. 3.~~—

SEC. 11. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.